movement between the cam and follower in a predetermined direction causing the rigid cap and the container neck to approach one another, thereby increasing the pressure exerted by the resiliently deformable member on the flexible membrane,

(v) the rigid cap further including a laminar member and an annular skirt depending downwardly therefrom, the cam or the follower being secured on an upper wall of the skirt,

[and] wherein the laminar member is spaced from the flexible membrane by a distance less than the maximum possible extension of the [resiliently deformable] flexible [member] membrane towards the laminar member.

2. (Cancelled)

3. (Twice Amended) A container [closure] assembly according to Claim 1 wherein the cam and follower include co-operating screw threads formed respectively on the container and the rigid cap.

4. (Fourth Amended) A container [closure] assembly according to Claim 1 shaped to close [a] the container [including a] neck having an annular flange for defining part of the said seal, the resiliently deformable member being, in use of the closure, substantially congruent with the flange whereby the [resilient] resiliently deformable member presses the flexible membrane against the flange.

I1

5. (Cancelled)

6. (Twice Amended) A container [closure] assembly according the Claim 1 wherein the laminar member is a circular disc, the skirt depending from the outer periphery thereof.

7. (Cancelled)

8. (Thrice Amended) A container [closure] assembly according to Claim 1 wherein the resiliently deformable member comprises a foamed material secured to the rigid cap.

9. (Thrice Amended) A container [closure] assembly according to Claim 1 wherein the flexible membrane comprises a metal foil adhesively securable on the container neck.

10. (Thrice Amended) A container [closure] assembly according to Claim 4 wherein the closure in shaped for use with a generally cylindrical container neck.

11. (Thrice Amended) A container [closure] assembly according to Claim 1 including a lifting tab hingeable secured to the flexible membrane by the same material as that of the flexible membrane.

12. (Cancelled)

13. (Twice Amended) A container [closure] assembly according to Claim [12] 1 wherein the rigid cap supports the body of the can in a radial direction.

14. (Thrice Amended) A method of closing a container with a closure to form a container assembly according to Claim 1 comprising the steps of:

(i) adhesively securing [a] said flexible membrane on the open end of [a] the neck of the container, thereby forming [a] said seal;

(ii) engaging the cam and follower of a said rigid cap and the container neck with one another; and

(iii) moving the rigid cap and the container neck relative to one another to cause relative movement between the cam and the follower in the predetermined direction, thereby causing the resiliently deformable member to press the flexible membrane against the container in the vicinity of the seal sufficiently to maintain the seal against pressures generated in the container on [heating] cooking of its contents.

15. (Amended) A method according to Claim 14 [wherein the container has a neck] including the step of securing the [said] flexible membrane on the open end of the said container neck by use of a heat-sealing method such as heat contact, ultrasonic, induction or hot air heating.

16. (Amended) A method according to Claim 14 wherein the step of moving the rigid cap and the container neck relative to one another includes rotating the rigid cap and the container relative to one another.

17. (Twice Amended) A method according to Claim 14 wherein the step of adhesively securing the flexible membrane on the open end of the container neck includes the sub steps of applying adhesive material to the flexible membrane and/or the container neck; engaging the flexible membrane and the container neck with one another to define the seal; and curing the adhesive material.

18. (Original) A method according to Claim 17 wherein the substep of curing the adhesive material includes heating thereof.

19. (Cancelled)

20. (Cancelled)

21. (Cancelled)

22. (Added) A method according to Claim 14 including the steps of:

I 1

adding food to the container through a second open end of the container which is

opposite said open end closed by said closure;

closing said second open end by a conventional can end;

heating said food within said container to cook said food; and

preventing rupture of said flexible membrane due to internal container pressure caused by said heating by the presence of said laminar member of said cap.

REMARKS:

The Office Action of January 29, 2003, the examiner's comments and the references cited have been carefully considered. The phrase "pre-stressed" has been removed from the claims. It is submitted that this amendment is fully responsive to the comments and rejections of the first four paragraphs of the office action. It is submitted that the claims are now in accordance with the requirements of 35 U.S.C. § 112.

It is noted that the remaining claims in the application have been considered unpatentable under the provisions of 35 U.S.C. § 103 for various reasons with various combinations. However, it is common to each rejection that the primary reference is silent regarding the spacing between the laminar member and the flexible membrane. The examiner's contention that this would be obvious to one of ordinary skill in the art is unsupported by the art or any citation. The examiner's attention is respectfully directed to the requirements set forth in the recent Court of Appeals for the Federal Circuit case entitled In re: Lee, 61 U.S.P.Q.2d 1430 (CAFC 2002). At Page 1433, the court states that the standard to be applied "requires that the agency not only have reasoned a sound decision, but have articulated the reasons for that decision." The court cites In re: Grasselli, 218 U.S.P.Q. 76,775 (Fed.Cir. 1983) for "it is fundamental that rejections under 35 U.S.C.§ 103 must be based on evidence comprehended by the language of that section." In referring to the Graham v. John Deere Co. case, the court notes that the patent examination process centers on prior art and the analysis